

REMARKS/ARGUMENTS

This Response to Office Action is responsive to the Office Action dated November 21, 2005. This Response is filed within six months of the mailing date of the Office Action.

Applicants respectfully request further examination and reconsideration in view of the arguments set forth fully below. Claims 1-7 are pending in this application. Claims 13-22 are new.

Claim Objections

The Examiner objected to amendments under 35 U.S.C. 132 and 37 CFR 1.121 as it appears to introduce new matter. Claim 1 has been amended as the Examiner implicitly suggests. However, the applicants respectfully assert that claim 5 does not suffer from the same deficiency identified by the Examiner with respect to claim 1. The first process, second process, and third process of claim 5 are not simulated.

Claim Rejections

Within the Office Action, Claims 1-7 have been rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over U.S. Patent No. 5,991,543 to Amberg et al., U.S. Patent No. 5,854,924 to Rickel et al., further in view of Houghton, "Macromedia Flash 3", June 1999 issue of PC Update. The applicants respectfully disagree with this rejection.

Prior Art

Amberg et al. disclose testing factory systems by executing them, typically for hours. However, Amberg et al. do not simulate an environment. The Examiner has not asserted that Amberg et al. disclose a simulated environment, and instead uses Rickel et al. to make up for the deficiency. Also, Amberg et al. do not recursively examine batch files.

Rickel et al. disclose disassembling a binary file and examining it. This combines the functions of a disassembler (to turn machine code into mnemonic code) and a compiler or assembler to perform variable examination and code examination

from a syntactical viewpoint. (See Rickel et al., FIG. 1) Moreover, Rickel et al. do not disclose examining multiple files for recursive examination from libraries to determine which ones would be executed in the factory. It follows that Rickel et al. do not disclose monitoring what these multiple files would do with the resources of an execution environment (e.g., floppy space, hard drive space, environment space, network environment, etc.)

Houghton discloses downloading media files and the software to play them. This does not include simulating an environment or the recursive examination of batch files. It should be noted that streaming media is not installed. Rather, streaming media is executed as it is downloaded.

Prior Art Distinguished

Claim 1

To render a claim obvious, a reference must teach each and every element of the claim. Claim 1 includes the language "simulating the execution of said dynamically generated file in accordance with a set of evaluation rules such that the outcome of the execution of said file is determined".

Amberg et al. do not disclose simulating the execution of a dynamically generated file [that includes instructions that when executed launch the process of downloading and the installation of customer ordered software, including a combination of files from a library, to a target computer]. The Examiner admits at page 4 of the Office Action that Amberg et al. do not disclose "simulating the execution of said dynamically generated file." In addition, the Examiner admits at page 6 of the Office Action that Amberg et al. do not disclose "simulating the process of downloading a file."

Rickel et al. do not disclose simulating the execution of a dynamically generated file [that includes instructions that when executed launch the process of downloading and the installation of customer ordered software, including a combination of files from a library, to a target computer]. Rickel et al. use a decompiler to analyze a single file at a time. Thus, Rickel et al. do not disclose

simulating download of a combination of files, or the dynamically generated file that includes instructions that when executed launch the process of downloading the combination of files.

Houghton does not disclose simulating the execution of a dynamically generated file [that includes instructions that when executed launch the process of downloading and the installation of customer ordered software, including a combination of files from a library, to a target computer]. The Examiner does not dispute this assertion in the Office Action. However, the Examiner asserts at page 6 of the Office Action that Houghton discloses simulating the process of downloading a file. The applicants respectfully disagree and assert that Houghton is simply measuring bandwidth bottlenecks for streaming media. Contrary to the Examiner's assertion at page 6 of the Office Action, Houghton do not disclose simulating the process of downloading a file at figure 7, "The bandwidth profile", and associated text (e.g. p. 3; 1-10). Rather, the bandwidth profile shows current bandwidth utilization as the streaming media is downloaded.

In Houghton, streaming media are not even installed. As indicated in Houghton at Page 3, Bandwidth considerations, second paragraph, "Streaming mean that Flash movies play while still downloading." That is, the flash movies can be downloaded and executed ***without installing***. Thus, Houghton cannot properly be combined with the teachings of Amberg et al. or Rickel et al., which have nothing to do with streaming media.

Claim 1 further includes the language "simulating an environment in which the combination of files from the library run in and interact with". Amberg et al. do not teach this language for reasons similar to those admitted by the Examiner and described above. Rickel et al. do not simulate an environment in which a combination of files run and interact. Houghton has nothing to do with simulating an environment in which a combination of files run and interact. Thus, claim 1 is allowable for this additional reason.

Since the prior art references fail to teach each and every limitation of claim 1, claim 1 is allowable over the cited prior art. Claims 2-4 are either directly or

indirectly dependent on the independent Claim 1. Accordingly, Claims 2-4 are allowable as being dependent on an allowable claim.

Claim 5

Claim 5 includes the language "a first process for creating a second process that simulates the process of downloading and the installation of customer ordered software, including a combination of files from a library, onto the target computer". The Examiner asserts at page 8 of the Office Action that Amberg et al. disclose this language at col. 3, line 51 – col. 4, line 17. The applicants respectfully disagree. The cited language does not describe a second process that simulates the process of downloading and simulates the installation of customer ordered software onto a target computer. Amberg et al. simply describe a sequencing program, not a simulator. Contrary to the Examiner's assertion, there is no teaching of a simulator, either implicitly or explicitly, in Amberg et al.

The Examiner does not explicitly assert that Rickel et al. disclose "a first process for creating a second process that simulates the process of downloading and the installation of customer ordered software, including a combination of files from a library, onto the target computer", as recited in claim 5. The applicants respectfully assert that Rickel et al. include no such teaching. Rickel et al. disassemble a single file at a time. Rickel et al. do not disclose a process that simulates downloading customer ordered software that includes a combination of files.

The Examiner does not refer to Houghton with reference to the rejection of claim 5, and the applicants respectfully assert that Houghton is irrelevant.

Claim 5 further includes the language "a third process for recursively simulating and interpreting the outcome of the execution of the second process". While the Examiner asserts at page 8 that Amberg et al. disclose a recursive process, the Examiner fails to show how the recursive process has anything to do with recursively simulating and interpreting the outcome of the execution of a process [that simulates the process of downloading and the installation of customer ordered software]. Rickel et al. and Houghton do not recursively simulate and interpret an outcome, and the Examiner has made no assertion that they do.

Since the prior art references fail to teach each and every limitation of claim

5, claim 5 is allowable over the cited prior art. Claims 6-7 are either directly or indirectly dependent on the independent Claim 5. Accordingly, Claims 6-7 are allowable as being dependent on an allowable claim.

New Claims

The applicants have added new Claims 13-22. No new matter has been added. The claims are believed to be allowable at least for depending from allowable base claims.

No new subject matter has been added by way of the above amendments. For the reasons given above, the applicants respectfully submit that Claims 1-7 and are now in a condition for allowance. The applicant respectfully requests that all rejections be withdrawn and the application be allowed at the earliest date possible. Should the Examiner have any questions or comments, he is encouraged to call the undersigned at (650) 838-4305 to discuss the same so that any outstanding issues can be expeditiously resolved.

Respectfully submitted,
Perkins Coie LLP



William F. Ahmann
Reg. No. 52,548

Date: May 22, 2006

Correspondence Address:

Customer No. 22918
Perkins Coie LLP
P.O. Box 2168
Menlo Park, California 94026
(650) 838-4300